

HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KELLY

Introduced: 3/2/05

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to defined contribution systems for members of the teachers'
2 retirement system and the public employees' retirement system; and providing for an
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 14.25 is amended by adding a new section to read:

6 **Article 1. Teachers First Hired before July 1, 2005.**

7 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**
8 **14.25.169, 14.25.173, 14.25.175, and 14.25.220.** The provisions of AS 14.25.005 -
9 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to
10 members first hired before July 1, 2005.

11 * **Sec. 2.** AS 14.25 is amended by adding new sections to read:

12 **Article 2. Teachers First Hired on or after July 1, 2005.**

13 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of
14 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

1 **Sec. 14.25.320. Defined contribution retirement system established;**
 2 **federal qualification requirements.** (a) A defined contribution retirement system
 3 for teachers of the state is created.

4 (b) The retirement system established by AS 14.25.310 - 14.25.495 is intended
 5 to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
 6 retirement plan established and maintained by the state for its employees, for the
 7 employees of school districts and regional educational attendance areas in the state,
 8 and for the employees of other employers whose participation is authorized by
 9 AS 14.25.310 - 14.25.495 and who participate in this system.

10 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person
 11 with a vested right to a benefit if the Internal Revenue Service determines that the
 12 amendment will result in disqualification of the plan under the Internal Revenue Code.

13 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of
 14 AS 14.25.310 - 14.25.495 is to encourage qualified teachers to enter and remain in
 15 service with participating employers by establishing a defined contribution retirement
 16 system on behalf of the members.

17 (b) All eligible employees first hired on or after July 1, 2005, shall participate
 18 in the system set out in AS 14.25.310 - 14.25.495 in which retirement and death
 19 benefits are provided through the purchase of annuity contracts, either fixed, variable,
 20 or a combination of fixed and variable.

21 **Sec. 14.25.340. Contributions by members.** Each member shall contribute
 22 to the system an amount equal to 10 percent of the member's base salary accrued from
 23 July 1 to the following June 30. The employer shall deduct the contribution from the
 24 member's salary at the end of each payroll period, and the contribution shall be
 25 credited by the system to the member contribution account. The contributions shall be
 26 deducted from employee compensation before the computation of applicable federal
 27 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
 28 member may not have the option of making the payroll deduction directly in cash
 29 instead of having the contribution picked up by the employer.

30 **Sec. 14.25.350 Contributions by employer.** (a) An employer shall
 31 contribute to the system a percentage of each member's base salary accrued from

July 1 to the following June 30, including any adjustments to contributions required by AS 14.25.440(a). The employer contribution to the system as a percentage of a member's base salary for employees during the member's

- (1) first year of service with the employer is zero percent;
- (2) second year of service with the employer is 25 percent of the maximum employer contribution rate;
- (3) third year of service with the employer is 50 percent of the maximum employer contribution rate;
- (4) fourth year of service with the employer is 75 percent of the maximum employer contribution rate;
- (5) fifth and all subsequent years of service with the employer is 100 percent of the maximum employer contribution rate.

(b) The maximum employer contribution rate is eight percent of each member's base salary accrued from July 1 to the following June 30 for the defined contribution plan.

(c) For purposes of this section, "year of service" has the meaning given in AS 14.25.220, except part-time service shall be credited on a pro rata basis only if the part-time service was for regular employment that is at least 50 percent of full-time service.

Sec. 14.25.360. Transmittal of contributions. (a) All contributions deducted in accordance with AS 14.25.340 shall be transmitted to the system for deposit in the retirement fund not later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted not later than July 15.

(b) The contributions of employers under AS 14.25.350 must be transmitted to the system for deposit in the retirement fund at the close of each pay period. If the contributions are not submitted within 15 days after the close of each payroll period, interest must be assessed on the outstanding contributions at one and one-half times the most recent actuarially determined rate of earnings for the system from the date that contributions were originally due. In addition, the amount of the contributions and interest may be deducted by the Department of Education and Early Development

1 from the state funds due the school district and the amount so deducted transmitted to
 2 the system for deposit in the retirement fund. Amounts due from the University of
 3 Alaska and interest as prescribed in this section may be deducted by the commissioner
 4 of administration from any state funds due the University of Alaska and the amount
 5 deducted transmitted to the administrator for deposit in the retirement fund.

6 **Sec. 14.25.370. Retirement benefits and vesting.** A participating member is
 7 immediately and fully vested in that member's contributions and in the employer
 8 contributions made on that member's behalf to an account under AS 14.25.310 -
 9 14.25.495.

10 **Sec. 14.25.380. Distributions.** (a) A participating member is eligible to
 11 receive distribution of that person's accumulated balance in the plan upon becoming a
 12 former participating member.

13 (b) Upon the death of a participating member or former participating member,
 14 the accumulated balance of that deceased participant is considered to belong to the
 15 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund
 16 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
 17 distribute the accumulated balance to a legal representative, if any, of the deceased
 18 participant's estate.

19 (c) A former participating member or refund beneficiary may elect one or a
 20 combination of several of the following methods of distribution of the accumulated
 21 balance:

- 22 (1) a lump sum distribution to the recipient;
- 23 (2) a lump sum direct rollover to another qualified plan, to the extent
 24 allowed by federal law;
- 25 (3) periodic distributions, as authorized by the board;
- 26 (4) no current distribution, in which case the accumulated balance
 27 must remain in the plan until the former participating member or refund beneficiary
 28 elects a method or methods of distribution under this section, to the extent allowed by
 29 federal law.

30 (d) If the former participating member's vested account balance is less than
 31 \$5,000, the board shall automatically refund the member's vested account balance

1 upon termination of employment. The member may waive the refund if the member
 2 submits a written statement to the board, within 120 days after termination, requesting
 3 that the member's vested account balance remain in the plan.

4 **Sec. 14.25.390. Refund upon termination.** (a) Except as provided in (b) of
 5 this section, a terminated member is entitled to a refund of the balance of the member
 6 contribution account.

7 (b) A member who is terminated and who is married at the time of application
 8 for a refund or whose rights to a refund are subject to a qualified domestic relations
 9 order is entitled to receive a refund of the balance of the member contribution account
 10 only if the member's present spouse and each person entitled under the order consent
 11 to the refund in writing on a form provided by the administrator. The administrator
 12 may waive written consent from the person entitled under the order if the
 13 administrator determines that the person cannot be located or for other reasons
 14 established by regulation. The administrator may waive written consent from the
 15 spouse if the administrator determines that

16 (1) the member was not married to the spouse during any period of the
 17 member's employment with an employer;

18 (2) the spouse has no rights to benefits under AS 14.25.310 -
 19 14.25.495 because of the terms of a qualified domestic relations order;

20 (3) the spouse cannot be located;

21 (4) the member and spouse have been married for less than two years
 22 and the member establishes that they are not cohabiting; or

23 (5) another reason established by regulation exists.

24 **Sec. 14.25.400. Rights under qualified domestic relations order.** A former
 25 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -
 26 14.25.495 to the extent required by a qualified domestic relations order. Rights under
 27 the order do not take effect until the order is filed with the administrator.

28 **Sec. 14.25.410. Rollover distributions and rollover contributions.** (a) A
 29 distributee may elect, at the time and in the manner prescribed by the administrator, to
 30 have all or part of an eligible rollover distribution paid directly to an eligible
 31 retirement plan specified by the distributee in the direct rollover.

1 (b) The system does not accept contributions of eligible rollover distributions.

2 (c) In this section,

3 (1) "direct rollover" means the payment of an eligible rollover
4 distribution by the system to an eligible retirement plan specified by a distributee who
5 is eligible to elect a direct rollover;

6 (2) "distributee" means a member or a beneficiary who is the surviving
7 spouse of the member;

8 (3) "eligible retirement plan" means

9 (A) an individual retirement account described in 26 U.S.C.
10 408(a);

11 (B) an individual retirement annuity defined in 26 U.S.C.
12 408(b);

13 (C) an annuity plan described in 26 U.S.C. 403(a);

14 (D) a qualified trust described in 26 U.S.C. 401(a);

15 (E) an annuity plan described in 26 U.S.C. 403(b); or

16 (F) a governmental plan described in 26 U.S.C. 457(b);

17 (4) "eligible rollover distribution" means a distribution of all or part of
18 a total account to a distributee, except for

19 (A) a distribution that is one of a series of substantially equal
20 installments payable not less frequently than annually over the life expectancy
21 of the distributee or the joint and last survivor life expectancy of the distributee
22 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

23 (B) a distribution that is one of a series of substantially equal
24 installments payable not less frequently than annually over a specified period
25 of 10 years or more;

26 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

27 (D) the portion of any distribution that is not includable in
28 gross income;

29 (E) a distribution that is on account of hardship; and

30 (F) other distributions that are reasonably expected to total less
31 than \$200 during a year.

1 **Sec. 14.25.420. Distribution requirements.** (a) The entire interest of a
 2 member must be distributed or must begin to be distributed not later than the member's
 3 required beginning date.

4 (b) If a member dies after the distribution of the member's interest has begun
 5 but before the distribution has been completed, the remaining portion of the interest
 6 shall continue to be distributed at least as rapidly as under the method of distribution
 7 being used before the member's death.

8 (c) If a member has made a distribution election and dies before the
 9 distribution of the member's interest begins, distribution of the member's entire interest
 10 shall be completed by December 31 of the calendar year containing the fifth
 11 anniversary of the member's death. However, if any portion of the member's interest
 12 is payable to a designated beneficiary, distributions may be made over the life of the
 13 designated beneficiary or over a period certain not greater than the life expectancy of
 14 the designated beneficiary, commencing on or before December 31 of the calendar
 15 year immediately following the calendar year in which the member died, and, if the
 16 designated beneficiary is the member's surviving spouse, the date distributions are
 17 required to begin may not be earlier than the later of December 31 of the calendar year
 18 (1) immediately following the calendar year in which the member died, or (2) in which
 19 the member would have attained 70 1/2 years of age, whichever is earlier. If the
 20 surviving spouse dies after the member but before payments to the spouse have begun,
 21 the provisions of this subsection apply as if the surviving spouse were the member.
 22 An amount paid to a child of the member will be treated as if it were paid to the
 23 surviving spouse if the amount becomes payable to the surviving spouse when the
 24 child reaches the age of majority.

25 (d) If a member has not made a distribution election before the member's
 26 death, the member's designated beneficiary must elect the method of distribution not
 27 later than December 31 of the calendar year (1) in which distributions would be
 28 required to begin under this section, or (2) that contains the fifth anniversary of the
 29 date of death of the member, whichever is earlier. If the member does not have a
 30 designated beneficiary or if the designated beneficiary does not elect a method of
 31 distribution, distribution of the member's entire interest must be completed by

1 December 31 of the calendar year containing the fifth anniversary of the member's
2 death.

3 (e) For purposes of (c) of this section, distribution of a member's interest is
4 considered to begin (1) on the member's required beginning date, or (2) if the
5 designated beneficiary is the member's surviving spouse and the surviving spouse dies
6 after the member but before payments to the spouse have begun, on the date
7 distribution is required to begin to the surviving spouse. If distribution in the form of
8 an annuity irrevocably commences to the member before the required beginning date,
9 the date distribution is considered to begin is the date that the distribution actually
10 commences.

11 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the
12 requirements of this section apply to all distributions of a member's interest and take
13 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

14 (g) All distributions required under this section are determined and made in
15 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
16 including any minimum distribution incidental benefit requirement.

17 (h) In this section,

18 (1) "designated beneficiary" means the individual who is designated as
19 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
20 regulations adopted under that statute;

21 (2) "required beginning date" means the first day of April of the
22 calendar year following the calendar year in which the member either attains 70 1/2
23 years of age or actually retires, whichever is later.

24 **Sec. 14.25.430. Designation of beneficiary.** (a) Each member shall
25 designate the beneficiary or beneficiaries to whom the administrator shall distribute
26 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's
27 death. Notwithstanding a previous designation of beneficiary, a person who is the
28 spouse of a member at the time of the member's death automatically becomes the
29 designated beneficiary if the spouse was married to the member during part of the
30 member's employment for an employer

31 (1) except to the extent a qualified domestic relations order filed with

1 the administrator provides for payment to a former spouse or other dependent of the
2 member; or

3 (2) unless the member filed a revocation of beneficiary accompanied
4 by a written consent to the revocation from the present spouse and each person entitled
5 under the order; however, consent of the present spouse is not required if the member
6 and the present spouse had been married for less than two years on the date of the
7 member's death and if the member established when filing the revocation that the
8 member and the present spouse were not cohabiting.

9 (b) Except as provided in (a) of this section, the member may change or
10 revoke the designation without notice to the beneficiary or beneficiaries at any time.
11 If a member designates more than one beneficiary, each shares equally unless the
12 member specifies a different allocation or preference. The designation of a
13 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
14 beneficiary shall be made on a form provided by the administrator and is not effective
15 until filed with the administrator.

16 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
17 survives the member, the death benefit shall be paid

18 (1) to the surviving spouse or, if there is none surviving;

19 (2) to the surviving children in equal parts or, if there are none
20 surviving;

21 (3) to the surviving parents in equal parts or, if there are none
22 surviving;

23 (4) to the estate.

24 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
25 14.25.495 as a consequence of a member's death shall provide the administrator with a
26 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
27 Documents establishing entitlement may be filed with the administrator immediately
28 after a change in the member's marital status. If the administrator does not receive
29 notification of a claim before the date 10 days after the member's death, the person
30 claiming entitlement is not entitled to receive from the division of retirement and
31 benefits any benefit already paid by the administrator.

1 **Sec. 14.25.440. Adjustments.** (a) When a change or error is made in the
2 records maintained by the system or in the contributions made on behalf of an
3 employee or an error is made in computing a benefit, and, as a result, a teacher or
4 member or beneficiary is entitled to receive from the system more or less than the
5 teacher or member or beneficiary would have been entitled to receive had the records
6 or contributions been correct or had the error not been made, the records,
7 contributions, or error shall be corrected. An adjustment to contributions shall be
8 picked up by the employer in accordance with AS 14.25.360 or treated as an
9 adjustment to the employer's contributions in accordance with this section, depending
10 upon the nature of the adjustment. If no future benefit payments are due, a person
11 who was paid any amount to which the person was not entitled is liable for repayment
12 of that amount, and a person who was not paid the full amount to which the person
13 was entitled shall be paid that amount.

14 (b) An adjustment that requires the recovery of benefits may not be made
15 under this section if

16 (1) the incorrect benefit was first paid two years or more before the
17 member or beneficiary was notified of the error;

18 (2) the error was not the result of erroneous information supplied by
19 the member or beneficiary; and

20 (3) the member or beneficiary did not have reasonable grounds to
21 believe that the amount of the benefit was in error.

22 (c) At each regularly scheduled meeting of the Alaska Teachers' Retirement
23 Board, the administrator shall report to the board on all situations since the
24 administrator's last report in which an adjustment has been prohibited under (b) of this
25 section. If the board finds that there is reason to believe that one or more of the
26 conditions set out in (b) of this section have not been met, the administrator shall
27 notify the member or beneficiary that an adjustment will be made to recover the
28 overpayment. A member or beneficiary who receives notice of adjustment under this
29 subsection may appeal to the board for a waiver of the adjustment under
30 AS 14.25.450. An adjustment that requires the repayment of benefits may not be
31 required while the appeal is pending.

1 (d) The system shall pay interest on amounts owed to a member or
2 beneficiary. Interest shall be charged on amounts owed to the system by a member or
3 beneficiary if the amount owed is the result of erroneous information supplied by the
4 member or beneficiary, or the member or beneficiary had reasonable grounds to
5 believe the amount of the benefit was in error. The interest paid under this subsection
6 is at the rate established by regulation for indebtedness contributions owed. Interest
7 accrues from the date on which the correct payment was due and continues until an
8 actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued
9 interest for periods less than 60 days or in amounts less than the limit established in
10 regulation for writing off small indebtedness and refund balances may not be collected
11 or paid under this subsection.

12 **Sec. 14.25.450. Waiver of adjustments.** (a) Upon appeal by an affected
13 member or beneficiary under (b) of this section, the board may waive an adjustment or
14 a portion of an adjustment made under AS 14.25.440 if, in the opinion of the board,

15 (1) the adjustment or portion of the adjustment will cause undue
16 hardship to the member or beneficiary;

17 (2) the adjustment was not the result of erroneous information supplied
18 by the member or beneficiary;

19 (3) before the adjustment was made, the member or beneficiary
20 received confirmation from the administrator that the member's or beneficiary's
21 records were correct; and

22 (4) the member or beneficiary had no reasonable grounds to believe
23 the records were incorrect before the adjustment was made.

24 (b) In order to obtain consideration of a waiver under this section, the affected
25 member or beneficiary must appeal to the board in writing within 30 days after receipt
26 of notice that the records have been adjusted. The ruling of the board shall be in
27 writing.

28 (c) The board may conduct a hearing on an appeal under this section.

29 (d) The board may impose conditions on granting a waiver that it considers
30 equitable. These conditions may include requiring the member or beneficiary to make
31 additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the member or beneficiary or the administrator if the request is received within 30 days after the initial ruling. Any modification of the initial ruling must be made within 30 days after receipt of a request for reconsideration.

Sec. 14.25.495. Definitions. In AS 14.25.310 - 14.25.495, unless the context requires otherwise,

- (1) "administrator" has the meaning given in AS 14.25.220;
- (2) "base salary" has the meaning given in AS 14.25.220;
- (3) "beneficiary" has the meaning given in AS 14.25.220;
- (4) "board" has the meaning given in AS 14.25.220;
- (5) "compensation" has the meaning given in AS 14.25.220;
- (6) "employer" has the meaning given in AS 14.25.220;
- (7) "former participating member" means a terminated member;
- (8) "fund" means the assets of the system;
- (9) "Internal Revenue Code" has the meaning given in AS 14.25.220;
- (10) "member" has the meaning given "teacher" in AS 14.25.220;
- (11) "member contribution account" means the total maintained by the system of the member's mandatory contributions, employer contributions on behalf of the employee, indebtedness principal and interest payments, interest credited to each of those accounts, and adjustments to the account in accordance with AS 14.25.440;
- (12) "military service" has the meaning given in AS 14.25.220;
- (13) "qualified domestic relations order" has the meaning given in AS 14.25.220;
- (14) "retirement fund" or "fund" has the meaning given in AS 14.25.220;
- (15) "school year" has the meaning given in AS 14.25.220;
- (16) "system" has the meaning given in AS 14.25.220;
- (17) "teacher" has the meaning given in AS 14.25.220;
- (18) "terminated" means a person no longer employed by an employer participating in the system.

* **Sec. 3.** AS 14.40.671(e) is amended to read:

(e) An employee whose rights to transfer assets out of a state retirement system are subject to a qualified domestic relations order is entitled to transfer assets from the state retirement system to the program only if the requirements for receiving a refund under AS 14.25.150(b), 14.25.390, [OR] AS 39.35.200(c), or 39.35.760, as appropriate, are met.

* **Sec. 4.** AS 39.35 is amended by adding a new section to Article 1 to read:

Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first hired before July 1, 2005. The following provisions of this chapter apply only to members first hired before July 1, 2005: AS 39.35.010, 39.35.120 - 39.35.165, 39.35.180 - 39.35.650, and 39.35.675 - 39.35.680.

* **Sec. 5.** AS 39.35 is amended by adding new sections to read:

Article 9. Employees First Hired on or after July 1, 2005.

Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895. The provisions of AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

Sec. 39.35.710. Defined contribution retirement system established; federal qualification requirements. (a) A defined contribution retirement system is established for employees of the state or a political subdivision or public organization of the state. All eligible employees first hired on or after July 1, 2005, must participate in this system in which retirement and death benefits are provided through the purchase of annuity contracts, either fixed, variable, or a combination of fixed and variable.

(b) The purpose of AS 39.35.700 - 39.35.895 is to encourage qualified personnel to enter and remain in the service of the state or a political subdivision or public organization of the state by establishing a system for the payment of defined contribution retirement benefits to or on behalf of the employees.

(c) The retirement system established by AS 39.35.700 - 39.35.895 is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement plan established and maintained by the state for its employees and for the employees of political subdivisions, public corporations, and public organizations of the state, and for the employees of other employers whose participation is authorized by AS 39.35.700 - 39.35.895 and who participate in the system set out in

1 AS 39.35.700 - 39.35.895.

2 (d) An amendment to AS 39.35.700 - 39.35.895 does not provide a person
3 with a vested right to a benefit if the Internal Revenue Service determines that the
4 amendment will result in disqualification of the plan under the Internal Revenue Code.

5 **Sec. 39.35.720. Contributions by members.** Each peace officer or fire
6 fighter shall contribute to the system an amount equal to 8.5 percent of the peace
7 officer's or fire fighter's compensation. Each other employee shall contribute to the
8 system an amount equal to eight percent of the employee's compensation. The
9 contributions shall be deducted by the employer at the end of each payroll period. The
10 contributions shall be deducted from employee compensation before computation of
11 applicable federal taxes, and the contributions shall be treated as employer
12 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of
13 making the payroll deduction directly instead of having the contribution picked up by
14 the employer.

15 **Sec. 39.35.730. Contributions by employer.** (a) An employer shall
16 contribute to the system a percentage of each member's base salary accrued from
17 July 1 to the following June 30, including any adjustments to contributions required by
18 AS 39.35.810. The employer contribution to the system as a percentage of an
19 employee's base salary for employees during the employee's

20 (1) first year of service with the employer is zero percent;

21 (2) second year of service with the employer is 25 percent of the
22 maximum employer contribution rate;

23 (3) third year of service with the employer is 50 percent of the
24 maximum employer contribution rate;

25 (4) fourth year of service with the employer is 75 percent of the
26 maximum employer contribution rate;

27 (5) fifth and all subsequent years of service with the employer is 100
28 percent of the maximum employer contribution rate.

29 (b) The maximum employer contribution rate is 8.75 percent of each
30 member's base salary accrued from July 1 to the following June 30 for the defined
31 contribution plan.

(c) For purposes of this section, "year of service" means one full year of membership service completed by an employee; part-time service shall be credited on a pro rata basis only if the part-time service was for regular employment that is at least 50 percent of full-time service.

Sec. 39.35.740. Retirement benefits and vesting. A participating member is immediately and fully vested in that member's contributions and in the employer contributions made on that member's behalf to an account under AS 39.35.700 - 39.35.895.

Sec. 39.35.750. Distributions. (a) A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.

(b) Upon the death of a participating member or former participating member, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the board, the board, in a lump sum distribution, shall distribute the accumulated balance to a legal representative, if any, of the deceased participant's estate.

(c) A former participating member or refund beneficiary may elect one or a combination of several of the following methods of distribution of the accumulated balance:

- (1) lump sum distribution to the recipient;
- (2) lump sum direct rollover to another qualified plan, to the extent allowed by federal law;
- (3) periodic distributions, as authorized by the board;
- (4) no current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

(d) If the former participating member's vested account balance is less than \$5,000, the board shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member

1 submits a written statement to the board, within 120 days after termination, requesting
2 that the member's vested account balance remain in the plan.

3 **Sec. 39.35.760. Refund upon termination.** (a) Except as provided in (b) of
4 this section, a terminated member is entitled to a refund of the balance of the member
5 contribution account.

6 (b) A member who is terminated and who is married at the time of application
7 for a refund or whose rights to a refund are subject to a qualified domestic relations
8 order is entitled to receive a refund of the balance of the member contribution account
9 only if the member's present spouse and each person entitled under the order consent
10 to the refund in writing on a form provided by the administrator. The administrator
11 may waive written consent from the person entitled under the order if the
12 administrator determines that the person cannot be located or for other reasons
13 established by regulation. The administrator may waive written consent from the
14 spouse if the administrator determines that

15 (1) the member was not married to the spouse during any period of the
16 member's employment with an employer;

17 (2) the spouse has no rights to benefits under AS 39.35.700 -
18 39.35.895 because of the terms of a qualified domestic relations order;

19 (3) the spouse cannot be located;

20 (4) the member and spouse have been married for less than two years
21 and the member establishes that they are not cohabiting; or

22 (5) another reason established by regulation exists.

23 **Sec. 39.35.770. Rights under qualified domestic relations order.** A former
24 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -
25 39.35.895 to the extent required by a qualified domestic relations order. Rights under
26 the order do not take effect until the order is filed with the administrator.

27 **Sec. 39.35.780. Rollover distributions and rollover contributions.** (a) A
28 distributee may elect, at the time and in the manner prescribed by the administrator, to
29 have all or part of an eligible rollover distribution paid directly to an eligible
30 retirement plan specified by the distributee in the direct rollover.

31 (b) The system does not accept contributions of eligible rollover distributions.

(c) In this section,

(1) "direct rollover" means the payment of an eligible rollover distribution by the system to an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

(2) "distributee" means a member or a beneficiary who is the surviving spouse of the member;

(3) "eligible retirement plan" means

(A) an individual retirement account described in 26 U.S.C. 408(a);

(B) an individual retirement annuity defined in 26 U.S.C. 408(b);

(C) an annuity plan described in 26 U.S.C. 403(a);

(D) a qualified trust described in 26 U.S.C. 401(a);

(E) an annuity plan described in 26 U.S.C. 403(b); or

(F) a governmental plan described in 26 U.S.C. 457(b);

(4) "eligible rollover distribution" means a distribution of all or part of a total account to a distributee, except for

(A) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of the distributee or the joint and last survivor life expectancy of the distributee and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

(B) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of 10 years or more;

(C) a distribution that is required under 26 U.S.C. 401(a)(9);

(D) the portion of any distribution that is not includable in gross income;

(E) a distribution that is on account of hardship; and

(F) other distributions that are reasonably expected to total less than \$200 during a year.

Sec. 39.35.790. Distribution requirements. (a) The entire interest of a

1 member must be distributed or must begin to be distributed not later than the member's
2 required beginning date.

3 (b) If a member dies after the distribution of the member's interest has begun
4 but before the distribution has been completed, the remaining portion of the interest
5 shall continue to be distributed at least as rapidly as under the method of distribution
6 being used before the member's death.

7 (c) If a member has made a distribution election and dies before the
8 distribution of the member's interest begins, distribution of the member's entire interest
9 shall be completed by December 31 of the calendar year containing the fifth
10 anniversary of the member's death. However, if any portion of the member's interest
11 is payable to a designated beneficiary, distributions may be made over the life of the
12 designated beneficiary or over a period certain not greater than the life expectancy of
13 the designated beneficiary, commencing on or before December 31 of the calendar
14 year immediately following the calendar year in which the member died, and, if the
15 designated beneficiary is the member's surviving spouse, the date distributions are
16 required to begin may not be earlier than the later of December 31 of the calendar year
17 (1) immediately following the calendar year in which the member died, or (2) in which
18 the member would have attained 70 1/2 years of age, whichever is earlier. If the
19 surviving spouse dies after the member but before payments to the spouse have begun,
20 the provisions of this subsection apply as if the surviving spouse were the member.
21 An amount paid to a child of the member will be treated as if it were paid to the
22 surviving spouse if the amount becomes payable to the surviving spouse when the
23 child reaches the age of majority.

24 (d) If a member has not made a distribution election before the member's
25 death, the member's designated beneficiary must elect the method of distribution not
26 later than December 31 of the calendar year (1) in which distributions would be
27 required to begin under this section, or (2) that contains the fifth anniversary of the
28 date of death of the member, whichever is earlier. If the member does not have a
29 designated beneficiary or if the designated beneficiary does not elect a method of
30 distribution, distribution of the member's entire interest must be completed by
31 December 31 of the calendar year containing the fifth anniversary of the member's

1 death.

2 (e) For purposes of (c) of this section, distribution of a member's interest is
3 considered to begin (1) on the member's required beginning date, or (2) if the
4 designated beneficiary is the member's surviving spouse and the surviving spouse dies
5 after the member but before payments to the spouse have begun, on the date
6 distribution is required to begin to the surviving spouse. If distribution in the form of
7 an annuity irrevocably commences to the member before the required beginning date,
8 the date distribution is considered to begin is the date that the distribution actually
9 commences.

10 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the
11 requirements of this section apply to all distributions of a member's interest and take
12 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

13 (g) All distributions required under this section are determined and made in
14 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
15 including any minimum distribution incidental benefit requirement.

16 (h) In this section,

17 (1) "designated beneficiary" means the individual who is designated as
18 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
19 regulations adopted under that statute;

20 (2) "required beginning date" means the first day of April of the
21 calendar year following the calendar year in which the member either attains 70 1/2
22 years of age or actually retires, whichever is later.

23 **Sec. 39.35.800. Designation of beneficiary.** (a) Each member shall designate
24 the beneficiary or beneficiaries to whom the administrator shall distribute benefits
25 payable under AS 39.35.700 - 39.35.895 as a consequence of the member's death.
26 Notwithstanding a previous designation of beneficiary, a person who is the spouse of a
27 member at the time of the member's death automatically becomes the designated
28 beneficiary if the spouse was married to the member during part of the member's
29 employment for an employer

30 (1) except to the extent a qualified domestic relations order filed with
31 the administrator provides for payment to a former spouse or other dependent of the

1 member; or

2 (2) unless the member filed a revocation of beneficiary accompanied
3 by a written consent to the revocation from the present spouse and each person entitled
4 under the order; however, consent of the present spouse is not required if the member
5 and the present spouse had been married for less than two years on the date of the
6 member's death and if the member established when filing the revocation that the
7 member and the present spouse were not cohabiting.

8 (b) Except as provided in (a) of this section, the member may change or
9 revoke the designation without notice to the beneficiary or beneficiaries at any time.
10 If a member designates more than one beneficiary, each shares equally unless the
11 member specifies a different allocation or preference. The designation of a
12 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
13 beneficiary shall be made on a form provided by the administrator and is not effective
14 until filed with the administrator.

15 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
16 survives the member, the death benefit shall be paid

17 (1) to the surviving spouse or, if there is none surviving;

18 (2) to the surviving children in equal parts or, if there are none
19 surviving;

20 (3) to the surviving parents in equal parts or, if there are none
21 surviving;

22 (4) to the estate.

23 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
24 39.35.895 as a consequence of a member's death shall provide the administrator with a
25 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
26 Documents establishing entitlement may be filed with the administrator immediately
27 after a change in the member's marital status. If the administrator does not receive
28 notification of a claim before the date 10 days after the member's death, the person
29 claiming entitlement is not entitled to receive from the division of retirement and
30 benefits any benefit already paid by the administrator.

31 **Sec. 39.35.810. Adjustments.** (a) When a change or error is made in the

1 records maintained by the system or in the contributions made on behalf of an
2 employee or an error is made in computing a benefit, and, as a result, a member or
3 beneficiary is entitled to receive from the system more or less than the member or
4 beneficiary would have been entitled to receive had the records or contributions been
5 correct or had the error not been made, the records, contributions, or error shall be
6 corrected. An adjustment to contributions shall be picked up by the employer in
7 accordance with AS 39.35.720 or treated as an adjustment to the employer's
8 contributions in accordance with this section, depending upon the nature of the
9 adjustment. If no future benefit payments are due, a person who was paid any amount
10 to which the person was not entitled is liable for repayment of that amount, and a
11 person who was not paid the full amount to which the person was entitled shall be paid
12 that amount.

13 (b) An adjustment that requires the recovery of benefits may not be made
14 under this section if

15 (1) the incorrect benefit was first paid two years or more before the
16 member or beneficiary was notified of the error;

17 (2) the error was not the result of erroneous information supplied by
18 the member or beneficiary; and

19 (3) the member or beneficiary did not have reasonable grounds to
20 believe that the amount of the benefit was in error.

21 (c) At each regularly scheduled meeting of the Public Employees' Retirement
22 Board, the administrator shall report to the board on all situations since the
23 administrator's last report in which an adjustment has been prohibited under (b) of this
24 section. If the board finds that there is reason to believe that one or more of the
25 conditions set out in (b) of this section have not been met, the administrator shall
26 notify the member or beneficiary that an adjustment will be made to recover the
27 overpayment. A member or beneficiary who receives notice of adjustment under this
28 subsection may appeal to the board for a waiver of the adjustment under
29 AS 39.35.820. An adjustment that requires the repayment of benefits may not be
30 required while the appeal is pending.

31 (d) The system shall pay interest on amounts owed to a member or

beneficiary. Interest shall be charged on amounts owed to the system by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection is at the rate established by regulation for indebtedness contributions owed. Interest accrues from the date on which the correct payment was due and continues until an actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued interest for periods less than 60 days or in amounts less than the limit established in regulation for writing off small indebtedness and refund balances may not be collected or paid under this subsection.

Sec. 39.35.820. Waiver of adjustments. (a) Upon appeal by an affected member or beneficiary under (b) of this section, the board may waive an adjustment or a portion of an adjustment made under AS 39.35.810 if, in the opinion of the board,

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(3) before the adjustment was made, the member or beneficiary received confirmation from the administrator that the member's or beneficiary's records were correct; and

(4) the member or beneficiary had no reasonable grounds to believe the records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the board in writing within 30 days after receipt of notice that the records have been adjusted. The ruling of the board shall be in writing.

(c) The board may conduct a hearing on an appeal under this section.

(d) The board may impose conditions on granting a waiver that it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the

1 member or beneficiary or the administrator if the request is received within 30 days
 2 after the initial ruling. Any modification of the initial ruling must be made within 30
 3 days after receipt of a request for reconsideration.

4 **Sec. 39.35.830. Management and investment of fund.** (a) The Alaska State
 5 Pension Investment Board is the fiduciary of the fund. In managing the fund, the
 6 Alaska State Pension Investment Board shall

7 (1) consider the status of the fund's investments and the system's
 8 liabilities on both a current and a probable future basis;

9 (2) determine the appropriate investment objectives for the fund;

10 (3) establish investment policies aimed at achieving the objectives; and

11 (4) act only in regard to the best financial interests of the system's plan
 12 and beneficiaries.

13 (b) The Alaska State Pension Investment Board may invest the fund on the
 14 basis of probable total rate of return without regard to the distinction between principal
 15 and income or to the generation of income.

16 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the
 17 Alaska State Pension Investment Board has the same powers and duties in regard to
 18 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the
 19 standard of prudence that the board must obey under AS 37.10.071(c) shall be in
 20 regard to the management of large trust investments rather than large investments.

21 **Sec. 39.35.850. Special rules for treatment of qualified military service.**
 22 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to
 23 qualified military service, contributions shall be made and benefits and service credit
 24 shall be provided in accordance with 26 U.S.C. 414(u).

25 **Sec. 39.35.860. Exemption from taxation and process.** (a) Except as
 26 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and
 27 other amounts held in the system on behalf of a member or other person who is or may
 28 become eligible for benefits under the system are exempt from Alaska state and
 29 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
 30 assignment, pledge, encumbrance, or charge of any kind, either voluntary or
 31 involuntary, before they are received by the person entitled to the amount under the

1 terms of the system. Any attempt to anticipate, alienate, sell, transfer, assign, pledge,
 2 encumber, charge, or otherwise dispose of any right to amounts accrued in the system
 3 is void. However, a member's right to receive benefits or the member contribution
 4 account may be assigned

5 (1) under a qualified domestic relations order;

6 (2) to a trust or similar legal device that meets the requirements for a
 7 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

8 (3) as provided in (c) of this section.

9 (b) Member contributions and other amounts held in the system and benefits
 10 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or
 11 levy as provided in AS 09.38.

12 (c) An inactive member may elect to have the taxable portion of the member
 13 contribution account transferred directly to another plan or an individual retirement
 14 arrangement that is qualified under the federal Internal Revenue Code and that accepts
 15 the transfer.

16 **Sec. 39.35.870. Time limit for application.** If an application for benefits or
 17 for refund has not been filed with the administrator by July 1 following the date on
 18 which an inactive member (except a member on leave of absence without pay) would
 19 attain age 75, or if an application for benefits or for refund has not been filed with the
 20 administrator within the 50 years following the most recent date on which the person
 21 was an active member, benefits or refunds may not be paid under AS 39.35.700 -
 22 39.35.895 and the member's records may be destroyed.

23 **Sec. 39.35.880. Penalty for false statements.** (a) A person who knowingly
 24 makes a false statement, or falsifies or permits to be falsified any record of this
 25 system, in an attempt to defraud this system, is guilty of a class A misdemeanor and
 26 forfeits all rights under AS 39.35.700 - 39.35.895.

27 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

28 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context
 29 requires otherwise,

30 (1) "active member" has the meaning given in AS 39.35.680;

31 (2) "actuarial adjustment" has the meaning given in AS 39.35.680;

- 1 (3) "administrator" has the meaning given in AS 39.35.680;
- 2 (4) "beneficiary" has the meaning given in AS 39.35.680;
- 3 (5) "board" has the meaning given in AS 39.35.680;
- 4 (6) "calendar year" has the meaning given in AS 39.35.680;
- 5 (7) "compensation" has the meaning given in AS 39.35.680;
- 6 (8) "employee contribution account" means the total maintained by the
- 7 system of the employer's contributions, employee's mandatory contributions, voluntary
- 8 contributions, indebtedness principal, and interest contributions, interest credited to
- 9 each of those accounts, and adjustments to the accounts in accordance with
- 10 AS 39.35.810;
- 11 (9) "employer" has the meaning given in AS 39.35.680;
- 12 (10) "former participating member" means a terminated member;
- 13 (11) "fund" means the assets of the system;
- 14 (12) "inactive member" has the meaning given in AS 39.35.680;
- 15 (13) "member" or "employee" has the meaning given in AS 39.35.680;
- 16 (14) "military service" has the meaning given in AS 39.35.680;
- 17 (15) "peace officer" or "fire fighter" has the meaning given in
- 18 AS 39.35.680;
- 19 (16) "public organization" has the meaning given in AS 39.35.680;
- 20 (17) "qualified domestic relations order" has the meaning given in
- 21 AS 39.35.680;
- 22 (18) "retired member" means an employee who is terminated, who has
- 23 not received a refund from the system, and who is receiving a retirement benefit from
- 24 the system;
- 25 (19) "retirement" means that period of time from the first day of the
- 26 month following (A) the date of termination, and (B) application for retirement, in
- 27 which a person is appointed to receive a retirement benefit;
- 28 (20) "surviving spouse" means the spouse of an employee who has
- 29 been married to the employee for at least one year at the time of the employee's death;
- 30 (21) "system" has the meaning given in AS 39.35.680;
- 31 (22) "terminated" means a person no longer employed by an employer

1 participating in the system.

2 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REVISOR INSTRUCTION. (a) In the following statute sections, the revisor of
5 statutes shall substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to
6 "this chapter": AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048,
7 14.25.061, 14.25.062, 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110,
8 14.25.142, 14.25.150, 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

9 (b) In the following statute sections, the revisor of statutes shall substitute the spanned
10 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.010,
11 39.35.165, 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360, 39.35.370,
12 39.35.371, 39.35.375, 39.35.381, 39.35.480, 39.35.490, 39.35.495, 39.35.505, 39.35.530,
13 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and 39.35.680.

14 * **Sec. 7.** This Act takes effect July 1, 2005.